

U.S. Department of Justice

United States Attorney
Southern District of New York

MEMO ENDORSED

86 Chambers Street, 3d Floor
New York, New York 10007

May 16, 2008

BY HAND

The Honorable Richard M. Berman
United States District Judge
Daniel Patrick Moynihan United
States Courthouse
500 Pearl Street, Room 650
New York, NY 10007

Re: *Fratellone v. Leavitt*,
08 Civ. 3100 (RMB)

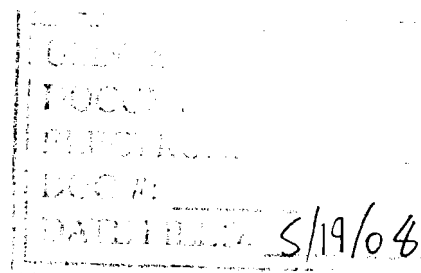
Dear Judge Berman:

<u>Answer and conference both</u> <u>adjourned to 7/28/08 @ 9:00 AM.</u> <u>(Motion practice is subject to the</u> <u>Court's individual rules).</u>	
SO ORDERED:	<u>Richard M. Berman</u> Richard M. Berman, U.S.D.J.
Date: <u>5/19/08</u>	

We write regarding the above-referenced action challenging the decision of an administrative law judge, holding that Medicare had paid certain monies to plaintiff in error. We write to request a 60 day extension of the time for defendant to answer the complaint, such that defendant's answer or dispositive motion will be due to be filed by July 29, 2008. We make this request because the Department of Health and Human Services ("HHS") has informed me that there is a significant backlog in the compilation of administrative records by the Medicare Appeals Counsel. This delay will, in turn, substantially delay HHS's generation of a litigation report in this matter. This is the Government first request for an extension of time to answer or move with respect to the complaint in this matter. Plaintiff's counsel, Abraham Wax, Esq., has consented to this request.


In addition, in the event the Court's grants the Government's extension request, we respectfully request that the initial conference scheduled in this matter for June 3, 2008, be rescheduled until after the time for the Government to answer or move with respect to the complaint.

Thank you for your consideration of these requests.



Respectfully submitted,

MICHAEL J. GARCIA
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for the Southern District of New York

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